

## Office of the Secretary, DOT

## § 212.2

is conferred by such permits for purposes specified in those subparagraphs.

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### PART 212—CHARTER TRIPS BY FOREIGN AIR CARRIERS

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APPENDIX A TO PART 212—FOREIGN ROUTE AIR CARRIER'S SURETY BOND UNDER PART 212 OF THE ECONOMIC REGULATIONS OF THE CIVIL AERONAUTICS BOARD (14 CFR PART 212)

APPENDIX B TO PART 212—STATEMENT OF SUPPORTING INFORMATION

APPENDIX C TO PART 212—CAB FORM 433

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SOURCE: ER-686, 36 FR 7449, Apr. 20, 1971, unless otherwise noted.

#### Subpart A—General Provisions

SOURCE: ER-1220, 46 FR 28371, May 26, 1981, unless otherwise noted.

##### § 212.1 Applicability.

This part applies to foreign air carriers that have a section 402 permit or an exemption authorizing direct foreign air transportation on a charter basis. Nothing in this part gives authority to operate a type or level of service not authorized by permit or exemption.

##### § 212.2 Definitions.

For the purposes of this part:

*Charter, charter flight, or charter trip* means air transportation performed pursuant to § 212.3.

*Charter organization* means that organization, group, or other entity from whose members (and their immediate families) a charter group is derived.

*Third freedom charter* means a charter carrying traffic that originates in the

country of the carrier's nationality and terminates in another country.

*Fourth freedom charter* means a charter carrying traffic that terminates in the country of the carrier's nationality and originates in another country.

*Fifth freedom charter* means a charter carrying traffic that originates and terminates in countries other than the country of the carrier's nationality, regardless of whether the flight operates via the home country.

*Long-term wet lease* means a lease by which the lessor provides both an aircraft and its crew, which either (a) lasts more than 60 days, or (b) is part of a series of such leases that amounts to a continuing arrangement lasting more than 60 days.

*Mixed charter* means a charter, the cost of which is borne, or pursuant to contract may be borne, partly by the charter participants and partly by the charterer.

*Pro rata charter* means a charter the cost of which is divided among the passengers transported.

*Single entity charter* means a charter the cost of which is borne by the charterer and not by individual passengers, directly or indirectly.

*Travel agent* means any person engaged in the formation of groups for transportation or in the solicitation or sale of transportation services.

[ER-1220, 46 FR 28371, May 26, 1981, as amended by ER-1247, 46 FR 47769, Sept. 30, 1981]

### § 212.3 Charter flight limitations.

(a) Passenger charter flights by foreign air carriers in foreign air transportation shall be limited to the movement of persons or their baggage on a time, mileage, or trip basis:

(1) Where all or part of an aircraft has been engaged by any of the following persons:

(i) By a person for his or her own use, including a direct air carrier or a direct foreign air carrier whether or not the charter is a wet lease for the carriage of commercial traffic;

(ii) By a person (no part whose business is the formation of groups for transportation or the consolidation of shipments for transportation or solicitation or sale of transportation services) for the transportation of a group

of persons as agent or representative of such group;

(iii) By an overseas military personnel charter operator as defined in part 372 of this chapter; or

(iv) By a charter operator or foreign charter operator as defined in part 380 of this chapter.

(2) In accordance with subpart E.

(b)(1) Each person engaging less than the entire capacity of an aircraft for the movement of persons and their personal baggage pursuant to paragraph (a)(1) of this section shall contract and pay for 20 or more seats.

(2) This section permits the carriage of charter cargo on the main deck or in the belly of a passenger charter flight.

(c) Cargo charter flights in foreign air transportation by a foreign air carrier are permitted without limitation, except as set forth in § 212.4. Charter cargo may be transported both on scheduled flights carrying individually-ticketed and/or individually waybilled traffic and on flights carrying charter traffic only.

[ER-1220, 46 FR 28371, May 26, 1981, as amended by ER-1247, 46 FR 47769, Sept. 30, 1981; ER-1275, 47 FR 137, Jan. 5, 1982]

### § 212.4 Prior authorization requirements.

(a) A foreign air carrier shall not perform any charter trip for which a statement of authorization is required until one has been granted by the Board. In addition, if the carrier is one that is required to obtain a statement of authorization under paragraph (e) of this section, neither it, nor any charter operator, travel agent, or any other person shall advertise or sell, or allow others to advertise or sell, any passenger charter services except those that have been specifically authorized by the Board.

(b) Foreign air carriers shall obtain a statement of authorization for each:

(1) Fifth freedom charter flight to or from the United States,

(2) Long-term wet lease to a direct air carrier or direct foreign air carrier,

(3) Charter flight for which the Board specially requires prior authorization under paragraph (e) or (f) of this section, or